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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/593,828 06/13/00 ROSEN

S 6510-138US1

EXAMINER

HM22/0809

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ART UNIT

PAPER NUMBER

1652

DATE MAILED:

08/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.  
09/593,828

Applicant(s)  
Rosen et al.

Examiner  
Maryam Monshipouri

Art Unit  
1652



~ The MAILING DATE of this communication appears on the cover sheet with the correspondence address ~

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-29 are subject to restriction and/or election requirements.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

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Applicant's **incomplete response** to restriction requirement filed 6/4/2001 (Paper # 13) is acknowledged. Applicant elected Group II invention directed to claims 5-12 with traverse but **did not elect any species**. In traversal of restriction requirement applicant argues that rejoining inventions of Group I-VII does not impose an undue burden of searching on the examiner and therefore said inventions should be examined together.

This argument was fully considered but was found to be unpersuasive because even though search for some inventions may overlap with those needed for others said searches are not coextensive. For example, Group II invention requires a search in classes 435/320.1, 325 and 252.3 which are not required for to be searched for Group I or Group III inventions. Thus, in contrast to applicant's position, rejoining claim 1-29 does impose an undue burden of searching on the examiner.

In conclusion, restriction is maintained according to previous office action and is hereby made **Final**. Also, applicant is reminded that to **be fully responsive** to restriction requirement he/she must **elect a single species**, as already indicated in the previous office action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Maryam Monshipouri, Ph.D. whose telephone number is (703) 308-1083. The examiner can normally be reached between 8:00 a.m. and 5:00 p.m. daily except for Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. P. Achutamurthy, can be reached at (703) 308-3804. The OFFICIAL fax number for Technology Center 1600 is (703) 308-4242.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.



Maryam Monshipouri, Ph.D.

Patent Examiner